

Docket No.: 320528615US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Su et al.

Confirmation No. 3118

Application No.: 10/756,779

Art Unit: 2627

Filed: January 14, 2004

Examiner: T. A. Goma

For: APPARATUS AND METHOD FOR
CONTROLLING DATA WRITE
OPERATIONS IN OPTICAL STORAGE
SYSTEM

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(D)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Issue Notification of June 10, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 320528615US from which the undersigned is authorized to draw.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 791 days. The PTO's calculated patent term adjustment is 538 days. Applicant is entitled to an additional 253 days of patent term adjustment.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 596 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 253 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 0 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 58 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $596+253-0-58$, which is 791 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	03/14/2005	↓
First RCE Filed	10/31/2006	596
Total		596

B Delay		
Filing Date + 3 Years	01/14/2007	↓
Request for Continued Examination	09/24/2007	253
Total		253

Overlap		
36-Month Date	01/14/2007	↓
Office Action	04/30/2007	0
Total		0

Reduction		
Office Action	04/30/2007	↓
Reply	09/24/2007	58
Total		58

(iii) Terminal Disclaimer

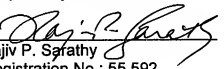
The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 0 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: *Aug. 28, 2009*

Respectfully submitted,

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